

Iceland's Ongoing Constitutional Fight

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Relative to its [rapid progress](#) during 1990–2000, democracy has been in decline around the globe since 2000, even within the EU. [Freedom House](#) has reduced the democracy scores of Hungary and Poland to 72 and 85 compared with Finland, Norway, and Sweden's full house of 100 points. Even the United States has seen its democracy score reduced to 86, down from 94 in 2010. You knew this. Yet it may surprise you to learn that Iceland has also been demoted by Freedom House, from 100 in 2016 to 95 in 2018.

What is the matter with Iceland? Let me suggest three points. Iceland's Parliament only weakly values three core democratic principles: equally weighted votes, fair access to natural resources, and transparency.

Unequal weight of votes

Iceland has never had equal suffrage, never followed the fundamental principle of 'one person, one vote.' In the 2016 parliamentary election, votes cast by those who reside at the north end of the tunnel under Hvalfjörður, not far from Reykjavík, weigh twice as much as votes cast by those who live at the south end of the 5.8 km tunnel. How? It is because twice as many votes are needed to elect an MP at the south end of the tunnel closer to Reykjavík, and so those votes are worth only half as much. This unequal vote valuation has been a matter of great controversy in Iceland since the mid-1800s. The farmers who called the shots wanted to keep the votes in the countryside even as the people moved away. This arrangement has remained in place, keeping the country divided into urban–rural constituencies with roughly equal numbers of seats in Parliament and unequal numbers of voters, a special Icelandic version of US gerrymandering.

The UN Human Rights Committee dismissed, in 1981, a complaint against this unequal vote weighting filed by an Icelandic Supreme Court advocate. The Committee based its dismissal, inter alia, on the false premise that "the system does not favor any particular political party at the expense of another." The fact is, however, that the electoral system has systematically benefited two political parties, the Independence Party and the Progressive Party, the two parties most heavily invested in the status quo. In the 2016 parliamentary election, held after the 2012 constitutional referendum in which two-thirds of the voters expressed their support for equal suffrage, the Independence Party won up to three extra seats in Parliament (33% of the seats). Without those seats, the party would not have been able to form the coalition government it did with 29% of the popular vote behind it, a coalition that collapsed within a year. In the 2013 election, the Progressive Party won 30% of the seats in Parliament with 24% of the vote, enabling it to form a coalition with the Independence Party with 60% of the seats in Parliament backed by 51% of the vote.

Discriminatory natural resource management

Iceland has long been marred by political subservience to wealthy oligarchs, a privileged class that Parliament created in the mid-1980s by granting a limited and closed group free access to Iceland's valuable fishing grounds. Parliament thus created a closed guild of fishing license holders who viewed the licenses as property that they could later sell or pledge at will. In 1990, fish stocks in Icelandic waters were defined by law as "the common property of the Icelandic nation." Yet this had no effect at all until 2002 when the law was changed to enable the government to levy a fishing fee on vessel owners. And this had at most a small effect as the fees in recent years have amounted to only about 10% of the sizable resource rent, leaving the remaining 90% of the rent in the pockets of thankful vessel owners who throw their weight about the political arena as oligarchs are wont to do.

The UNHCR, in 2007, expressed the [view](#) that the Icelandic fisheries management system is discriminatory, and thus constitutes a violation of human rights. (The Supreme Court of Iceland reached the same conclusion in 1998, before reversing itself under visible political pressure in 2000.) The Committee, whose view is binding de facto if not de jure, instructed the government to remove the discriminatory element from the fisheries management system and to award damages to the two plaintiff fishermen. The government responded by promising a new constitution with a natural resource provision to rectify the problem. On this basis, the Committee took Iceland off the hook in 2012 by closing the case, seemingly oblivious to the Russian proverb 'Trust, but verify' (#####, ## #####; *Doveryai, no proveryai*). In recent years, the oligarchs have made 90% of their recorded donations to the two afore-mentioned political parties that were, along with bankers, primarily responsible for the 2008 crash.

Insufficient transparency

Iceland also suffers from insufficient freedom of information, which stems from a lack of transparency. The *modus operandi* of the authorities seems to be that unless the law stipulates the publication of certain possibly sensitive information there is no reason to make that information public. Information that is readily available in neighboring countries to anyone who asks for it is routinely kept from the public. For example, the Pension Fund for State Employees has refused to publish the names and pension amounts paid to those who receive the highest payments from the Fund, apparently to keep from the public details of the well-known fact that certain individuals — former MPs, for example — receive multiple pensions while many ordinary retirees live from hand to mouth.

For more than a year during 2017–2018 the *Stundin* newspaper was under a gag order that prevented it from reporting leaked information about the controversial financial dealings during the 2008 crash of Iceland's current finance minister whose name was among those of five European cabinet ministers listed in the [Panama Papers](#) (two of the remaining four ministers were also Icelanders, and two of the three Icelanders are still in Parliament). For comparison, the New York Times had

to wait only 15 days before the US Supreme Court authorized the paper to continue publishing the Pentagon Papers in 1971.

New constitution

Iceland's recent attempt to rectify these systemic flaws with a new constitution has foundered. After the 2008 financial collapse in Iceland (the [third biggest](#) bankruptcy in world history), Parliament had a new constitution drafted by a nationally elected Constitutional Council. Over the course of four months in mid-2011, the Council produced a Constitutional Bill addressing, among others, the three issues reviewed above. Specifically, the Bill aims to secure equal suffrage, sever the umbilical cord binding politicians to the vessel-owning oligarchs, and increase transparency.

The Bill was passed unanimously in the Constitutional Council. It was subsequently approved by two-thirds of the voters in the afore-mentioned national referendum called by Parliament in 2012.

What happened after Iceland's 2012 constitutional referendum? [Nothing](#). Six years have passed. Parliament has yet to assent the overwhelming popular support of the new constitution expressed in the referendum. Opinion polls since the referendum (most recently in late 2017) demonstrate undiminished popular support. Before our eyes, one of the world's oldest parliaments (est. 930 AD) is falseheartedly trying to thwart the will of the people in an unprecedented affront against Iceland's time-honored democracy.

The game is not up. If Parliament wants to retain Iceland's place among democratic European nations, it must relent. It must respect the will of the people. This must happen.

Misbehaving politicians

Is there a lesson for other countries to be learned from Iceland's now six-year-long constitutional impasse? I think so. When political parties act like interest organizations of politicians and as obedient servants of their paymasters, and when (as in Iceland) [two-thirds](#) of Gallup respondents view government corruption as pervasive, such misbehavior by politicians can have serious consequences to the point of undermining democracy. If this could happen in Iceland, it [can happen](#) elsewhere as well. Stay on guard.

